# Security Intelligence Review Committee

2011–12

**Departmental Performance Report**

The Right Honourable Stephen Harper
Prime Minister of Canada

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# Chair's Message

I am pleased to introduce the Departmental Performance Report of the Security Intelligence Review Committee (SIRC or the Committee) for the fiscal year 2011-12.

As the newly appointed Chair of the Committee, I take pride in SIRC's commitment to building and maintaining the public's trust that the activities of the Canadian Security Intelligence Service (CSIS or the Service) are carried out in a lawful, effective and appropriate manner. This independent assurance to the Parliament of Canada helps to ensure that the Service remains accountable to Parliament and to the citizens of Canada.

Our work is intended to provide expert advice to policymakers and lawmakers on CSIS's performance, but also to reassure Canadians that CSIS investigates threats to national security in a manner that respects Canada's core democratic values. The *Canadian Security Intelligence Service Act* (*CSIS Act*) continues to guide SIRC's work in assessing CSIS's performance against the mandate and authorities conferred upon it by Parliament in 1984. The Committee embraces the belief that balancing collective public safety with individual rights is a hallmark of Canada's democratic values and aspirations. It is a theme that I am confident will continue to guide SIRC's work in the future.

The Honourable Chuck Strahl, P.C.
Chair

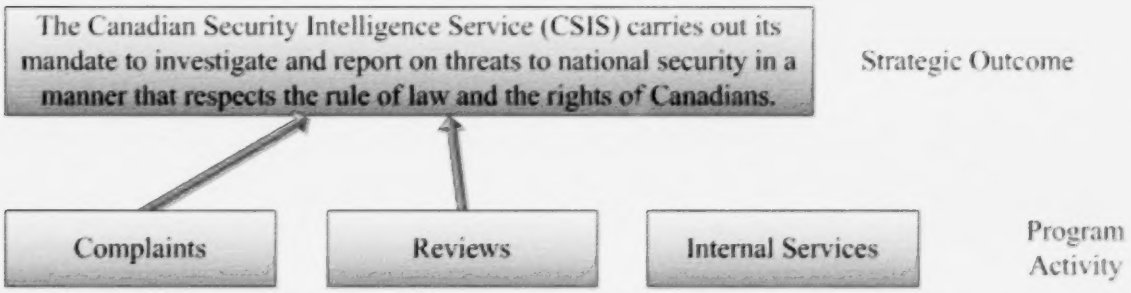
# Section I: Organizational Overview

## Raison d'être and Responsibilities

The Security Intelligence Review Committee (SIRC or the Committee) is a small, independent, external review body that reports to the Parliament of Canada on the operations of the Canadian Security Intelligence Service (CSIS or the Service). SIRC was established in 1984, at the same time as CSIS, and derives its powers from the *Canadian Security Intelligence Service Act* (*CSIS Act*).

Parliament has authorized CSIS to gather intelligence in the interests of protecting national security. SIRC ensures that these powers are used appropriately and in accordance with the law, in order to protect the rights and freedoms of Canadians. To do this, SIRC examines past operations of the Service and investigates complaints. It has the authority to examine all information under the control of CSIS, no matter how sensitive or how highly classified that information may be. The results of this work, redacted to protect national security and personal privacy, are summarized in its Annual Report to Parliament.

## Strategic Outcome(s) and Program Activity Architecture


The Canadian Security Intelligence Service (CSIS) carries out its mandate to investigate and report on threats to national security in a manner that respects the rule of law and the rights of Canadians.
Strategic Outcome
Complaints
Reviews
Internal Services
Program Activity

## Organizational Priorities

### Summary of Progress Against Priorities

| Priority | Type[1] | Strategic Outcome |
|---|---|---|
| Continuous improvement for reviews and complaints | Ongoing | The Canadian Security Intelligence Service (CSIS) carries out its |

1. Type is defined as follows: previously committed to—committed to in the first or second fiscal year prior to the subject year of the report; ongoing—committed to at least three fiscal years prior to the subject year of the report; and new—newly committed to in the reporting year of the Report on Plans and Priorities or the Departmental Performance Report.

| | | |
|---|---|---|
| | | mandate to investigate and report on threats to national security in a manner that respects the rule of law and the rights of Canadians. |
| • SIRC continued to refine its research methodology by drawing on various social scientific approaches and methods, as well as other audit models.<br>• SIRC adjusted its complaints processes in light of a recent Federal Court decision with regard to the applicability of the *Charter of Rights and Freedoms* to SIRC decisions.<br>• SIRC researchers enhanced their knowledge of the security intelligence environment by attending conferences, seminars and panel discussions.<br>• SIRC members received customized administrative tribunal training, to assist them in presiding over hearings in a fair and timely manner. | | |

## Risk Analysis

The magnitude of change that has taken place in the security and intelligence community over the past decade continues to give rise to many challenges. Questions regarding the mandate and performance of Canada's national security apparatus have been raised in public debates.

The Federal Court ruled recently, in one of two judicial review applications, that SIRC has jurisdiction to consider the *Canadian Charter of Rights and Freedoms* in the course of its investigations. The impact of this ruling is still under discussion within SIRC.

SIRC continues to monitor discussions and debates about potential and ongoing government initiatives that may affect SIRC's own reviews and complaints investigation processes. As with all micro-agencies, meeting central agency reporting requirements provides constant challenges for SIRC.

## Summary of Performance

### 2011–12 Financial Resources ($000)

| Planned Spending | Total Authorities | Actual Spending |
|---|---|---|
| 2,840 | 3,388 | 2,834 |

### 2011–12 Human Resources (full-time equivalents [FTEs])

| Planned | Actual* | Difference |
|---|---|---|
| 21 | 16 | -5 |

*SIRC transitioned to its new reference level in 2011-12 which is reflected in the "Actual" above.

## Summary of Performance Tables

Progress Toward Strategic Outcome

| **Strategic Outcome: The Canadian Security Intelligence Service (CSIS) carries out its mandate to investigate and report on threats to national security in a manner that respects the rule of law and the rights of Canadians.** | | |
|---|---|---|
| **Performance Indicators** | **Targets** | **2011–12 Performance** |
| Number of reviews/complaint investigations that assessed whether CSIS activities were appropriate, effective and in compliance with the *CSIS Act*, Ministerial Direction and operational policy | No major incidents of non-compliance by CSIS | SIRC review findings and the results of complaint investigations found no major incidents of non-compliance by CSIS. |

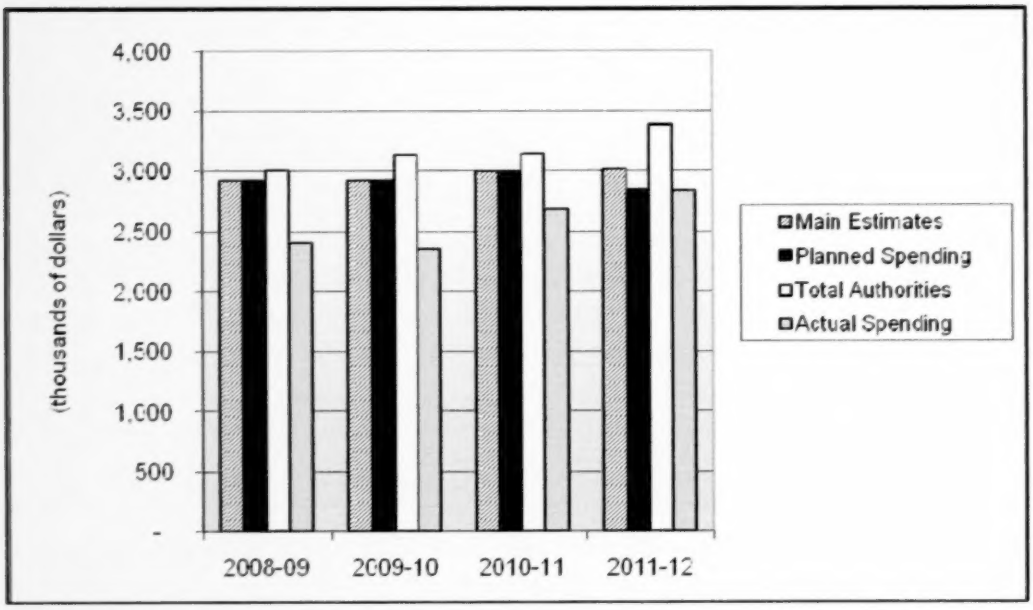
Performance Summary, Excluding Internal Services

| **Program Activity** | **2010–11 Actual Spending** | **2011–12 ($000)** | | | | **Alignment to Government of Canada Outcome** |
|---|---|---|---|---|---|---|
| | | **Main Estimates** | **Planned Spending** | **Total Authorities** | **Actual Spending** | |
| Reviews | 1,039 | 1,162 | 1,162 | 1,153 | 1,195 | A safe and secure Canada |
| Complaints | 597 | 890 | 890 | 871 | 482 | A transparent, accountable, and responsive federal government |
| **Total** | **1,636** | **2,052** | **2,052** | **2,024** | **1,677** | |

Performance Summary for Internal Services

| **Program Activity** | **2010–11 Actual Spending** | **2011–12 ($)** | | | |
|---|---|---|---|---|---|
| | | **Main Estimates** | **Planned Spending** | **Total Authorities** | **Actual Spending** |
| Internal Services | 1,047 | 962 | 788 | 1,364 | 1,157 |

## Expenditure Profile




The increase in both the total authorities and actual spending for fiscal year 2011-12 are mainly due to the payment of severance pay requested by employees on a voluntary basis following the ratification of specific collective agreements.

## Estimates by Vote

For information on SIRC's organizational Votes and/or statutory expenditures, please see the Public Accounts of Canada 2012 (Volume II). An electronic version of the Public Accounts 2012 is available on the Public Works and Government Services Canada's website (http://www.tpsgc-pwgsc.gc.ca/recgen/txt/72-eng.html).

# Section II: Analysis of Program Activities by Strategic Outcome

## Strategic Outcome

The Security Intelligence Review Committee has one Strategic Outcome: that *The Canadian Security Intelligence Service (CSIS) carries out its mandate to investigate and report on threats to national security in a manner that respects the rule of law and the rights of Canadians.*

## Program Activity: Reviews

### Program Activity Description

The purpose of the Review Program is to conduct reviews of CSIS activities to ensure that CSIS performs its duties and functions appropriately and effectively, and in accordance with legislation, policy and ministerial direction. Through a comprehensive and multifaceted program of research, SIRC staff examines various aspects of CSIS's operations and activities to prepare a retrospective analysis for the Committee's approval.

2011–12 Financial Resources ($)

| Planned Spending | Total Authorities | Actual Spending |
|---|---|---|
| 1,162 | 1,153 | 1,195 |

2011–12 Human Resources (full-time equivalents [FTEs])

| Planned | Actual | Difference |
|---|---|---|
| 10 | 8 | -2 |

Program Activity Performance Summary

| Expected Results | Performance Indicators | Targets | Actual Results |
|---|---|---|---|
| The improvement of CSIS's performance based on the findings and recommendations that SIRC makes in its | Number of reviews completed as per SIRC's annual Research Plan. | 100% of reviews completed as per SIRC's annual Research Plan. | 100% of the reviews outlined in SIRC's annual Research Plan were completed. |

| | | | |
|---|---|---|---|
| reviews. | Percentage of SIRC's review recommendations accepted by CSIS. | 70% of SIRC's review recommendations accepted by CSIS. | 65% of SIRC's review recommendations were accepted by CSIS. |
| | Frequency that key elements of CSIS activities and operations are reviewed. | 100% of the statutory requirements, as per *CSIS Act*, are met. | 100% of the statutory requirements, as per the *CSIS Act* were met. |
| | Production of SIRC Annual Report. | Submission of SIRC Annual Report to the Minister of Public Safety Canada as per the statutory requirements. | SIRC's Annual Report was submitted to the Minister of Public Safety Canada as per the statutory requirements. |

## Performance Summary and Analysis of Program Activity

The first performance indicator used is the measure of SIRC's ability to complete its annual Research Plan as intended. As the plan is the foundation for the Committee's review activities each year, ensuring full completion is a meaningful factor when measuring SIRC's performance under this program activity.

SIRC's Annual Report to Parliament, which is SIRC's main communications vehicle, strives to educate as well as to generate public discussion.

The next performance indicator used is the follow up with CSIS to identify whether the organization has acted on recommendations made by SIRC in the preceding year's reviews. Last year, SIRC made seven recommendations: four were accepted, two were rejected and one was accepted in part. While SIRC is mathematically just short of the anticipated threshold in terms of raw number, the pattern of CSIS accepting 70% of our recommendations year-over-year has not changed significantly. The fact that the measure is derived from such a small sample size also contributes to the magnitude of the variance.

Another performance indicator tracks whether key elements of CSIS activities are reviewed at least once every five years. Key elements include, for example, targeting, warrants, information exchanges with domestic and foreign partners and human source operations. In recent years, SIRC has undertaken reviews using a thematic approach that enables SIRC to examine a cross-

section of CSIS's activities within a single review. As a result, key elements of CSIS's activities get reviewed more frequently, in many cases annually.

In addition, SIRC members and staff carried out a total of two visits to CSIS regional offices. These visits provided SIRC with an opportunity to appreciate the day-to-day work of CSIS investigators and to learn about the priorities and challenges of regional offices; they also gave staff the opportunity to examine the wide range of activities undertaken at the regional level, thereby allowing SIRC to review more effectively the key elements of CSIS's activities. Finally, SIRC reviewed one of CSIS's foreign stations to examine CSIS's relationships and exchanges of information with foreign partners, its interactions with domestic partners at post, and the nature and scope of its operations abroad.

## Lessons Learned

SIRC's review function continues to adapt to the rapidly changing environment in which security intelligence operates. SIRC continuously examines its review methodology to ensure that it remains fully informed of the diverse range of CSIS activities and operations.

## Program Activity: Complaints

### Program Activity Description

Receive and inquire into complaints about CSIS brought by individuals or groups, for example, denials of security clearances, complaints referred by the Canadian Human Rights Commission, or actions of CSIS in relation to would-be citizens. Provide an independent recourse mechanism to investigate complaints. Conduct pre-hearing conferences, preside over complaint hearings, and prepare complaint reports.

2011-12 Financial Resources ($)

| Planned Spending | Total Authorities | Actual Spending |
|---|---|---|
| 890 | 871 | 482 |

Less than anticipated spending was due to the two Judicial Reviews costing significantly less than anticipated.

2011-12 Human Resources (full-time equivalents [FTEs])

| Planned | Actual | Difference |
|---|---|---|
| 5 | 3 | -2 |

Planned reduction as SIRC completed its transition to its new reference level

Program Activity Performance Summary

| Expected Results | Performance Indicators | Targets | Actual Results |
|---|---|---|---|
| Parties before SIRC receive a fair and timely resolution of their complaint. | SIRC will meet its published service standards for those elements in the complaints process which it controls. | 85% of published service standards are met. | The decision released by the Committee during the review period was delayed for a number of reasons and did not meet the targets established in the service standards. |
| | As a percentage of all SIRC complaint decisions rendered, any which are reviewed by the Federal Court, are upheld on judicial review. | 90% of complaint decisions upheld (as a percentage of all complaint decisions rendered). | N/A as the Federal Court did not render any decisions with regard to SIRC files during this time period. |

## Performance Summary and Analysis of Program Activity

SIRC conducts investigations into complaints concerning CSIS made by either individuals or groups. The types of complaints that SIRC investigates are specified in the *CSIS Act*. Under Section 41 of the *CSIS Act*, SIRC investigates "any act or thing done by the Service"; under Section 42, SIRC investigates complaints about denials of security clearances to federal government employees and contractors. SIRC may also conduct investigations in relation to referrals from the Canadian Human Rights Commission and Minister's reports in regards to the *Citizenship Act*.

The time to investigate and resolve a complaint will vary in length depending on a number of factors, such as the complexity of the file, the volume of documents to be examined, the number of hearing days required (both in the presence and in the absence of complainants), and the availability of the participants.

The *CSIS Act* provides for SIRC hearings to be conducted "in private". All parties have the right to be represented by counsel and to make representations at the hearing, but no one is entitled, as of right now, to be present during, have access to, or comment on representations made to SIRC by any other person. A party may request an *ex parte* hearing (i.e., a hearing in the absence of the complainant or possibly other parties) to present evidence which, for reasons of national security

or other reasons considered valid by SIRC, cannot be disclosed to the other party or their counsel. During such hearings, SIRC's legal team will cross-examine the witnesses to ensure that the evidence is appropriately tested and reliable, in order to provide the Committee's presiding member with the most complete and accurate factual information relating to the complaint. Once the *ex parte* portion of the hearing is completed, SIRC will determine whether the substance of the evidence can be disclosed to the excluded parties. If so, SIRC will prepare a summary of the evidence and provide it to the excluded parties once it has been vetted for national security concerns.

When SIRC's investigation of a complaint made under Section 41 is concluded, SIRC provides a report to the Director of CSIS and to the Minister of Public Safety, as well as a declassified version of the report to the complainant.

On completion of an investigation in relation to a complaint under Section 42 of the *CSIS Act*, SIRC reports its findings and any recommendations to the Minister, the Director of CSIS and the Deputy Head concerned, and provides a declassified version of the report to the complainant.

Pursuant to Section 42 of the *CSIS Act*, individuals who have been denied a security clearance must be informed of this action by the Deputy Head of the organization. These individuals have the right to make a complaint to SIRC and, where appropriate, SIRC will investigate and report its findings and any recommendations to the Minister, the Director of CSIS, the Deputy Head concerned and the complainant.

During this past year there were a number of delays in SIRC processes resulting from a shortage of legal staff and a vacancy on the Committee itself. These delays resulted in the service standard for the release of decisions within 30 months of determination of jurisdiction not being met.

SIRC members were provided with customized legal training to assist them in presiding over hearings in a fair and expeditious manner.

## Lessons Learned

A number of factors impact on SIRC's ability to fulfill its mandate and on the time required to resolve complaint investigations. These include the volume and complexity of complaints received and investigated, the quantity of documents reviewed, the number of hearing days required, the availability of the parties, staff availability and the appointment of new members. SIRC will continue to strive to ensure that its investigations of complaints are conducted in a fair, thorough and timely manner.

# Program Activity: Internal Services

## Program Activity Description

This activity captures all of the corporate costs associated with the day-to-day operations of the organization (e.g. informatics, asset management, accommodations, security, corporate reporting, information management, etc.). Also, the administration of meetings attended by Committee members, are captured within this Program Activity.

Although the Privy Council Office provides some administrative and financial services to SIRC through a Memorandum of Understanding (MOU), the cost of that MOU is accounted for within this Program Activity. In addition, financial and human resource management services that are not provided by the Privy Council Office are funded through this activity.

### 2011–12 Financial Resources ($)

| Planned Spending | Total Authorities | Actual Spending |
|---|---|---|
| 788 | 1,364 | 1,157 |

Less than anticipated spending due to reduction in staff early in the period

### 2011–12 Human Resources (full-time equivalents [FTEs])

| Planned | Actual | Difference |
|---|---|---|
| 6 | 5 | -1 |

Planned reduction as SIRC completed its transition to its new reference level

### Program Activity Performance Summary

| Expected Results | Performance Indicators | Targets | Actual Results |
|---|---|---|---|
| Achieve greater efficiency and effectiveness within SIRC. | SIRC will develop and implement an HR Plan addressing key areas such as succession planning and staff development and retention. | Completion and approval of HR Plan.<br>Development of strategy for implementation of long term recommendations. | HR Plan was completed and approved in November 2011. |
| | Finalize internal policies and applicable procedures | Approval and dissemination of | New security policies, procedures and plans were completed by |

| | | | |
|---|---|---|---|
| | in the areas of security and asset management. | internal policies. | March 31 2012. |
| | Development of a strategy for information management. | Development and approval of a Plan for addressing a long term information management strategy. | Updates to existing structures were completed, with long term technology updates deferred due to cost considerations. |

## Performance Summary and Analysis of Program Activity

In 2011-12, SIRC completed a comprehensive Human Resources Plan which will greatly improve long term management of human resources within the organization. In addition, SIRC completely updated its security policy suite of documents and its Departmental Security Plan.

## Lessons Learned

The completion of the HR Plan facilitated the transition to SIRC's new resources level and will improve the organization's ability to adapt to future changes should they occur.

# Section III: Supplementary Information

## Financial Highlights

**Condensed Statement of Financial Position (Unaudited)**
As at March 31, 2012
($000)

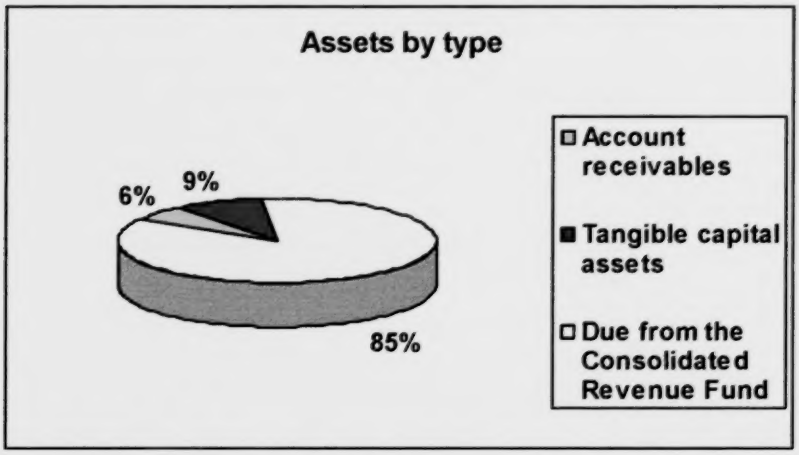
| | Change % | 2011–12 | 2010–11 |
|---|---|---|---|
| Total net liabilities | 22% | 547 | 701 |
| Total net financial assets | 10 % | 319 | 290 |
| Departmental net debt | **45%** | **228** | **411** |
| Total non-financial assets | -3 % | 30 | 31 |
| Departmental net financial position | **48%** | **(198)** | **(380)** |

**Condensed Statement of Operations and Departmental Net Financial Position (Unaudited)**
For the Year Ended March 31, 2012
($000)

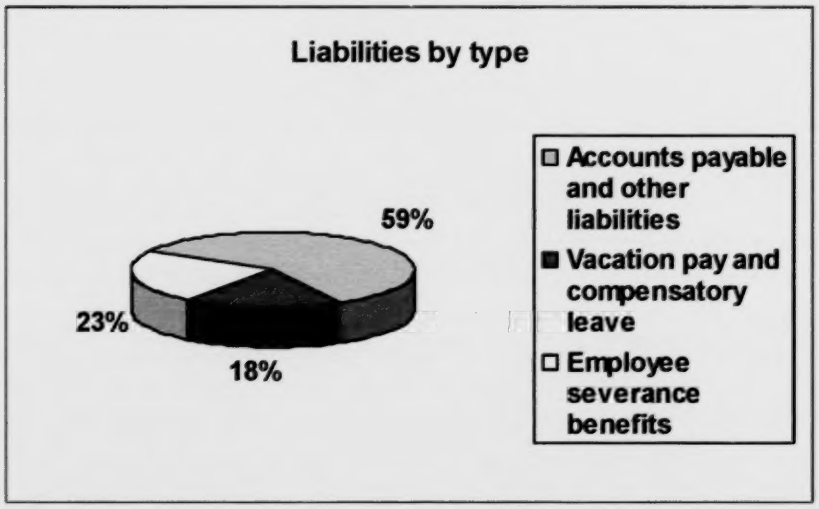
| | Change % | 2011–12 | 2010–11 |
|---|---|---|---|
| Total expenses | 0 % | 3,107 | 3,113 |
| Net cost of operations before government funding and transfers | **0 %** | **3,107** | **3,113** |
| Departmental net financial position | **48%** | **(198)** | **(380)** |

Total net cost of operations before government funding and transfers was $3,107 thousand at the end of 2011-12, a decrease of $6 thousand from fiscal year 2010-11. The departmental net financial position has improved by 48% mainly due to the payment of severance pay requested by employees on a voluntary basis following the ratification of specific collective agreements.

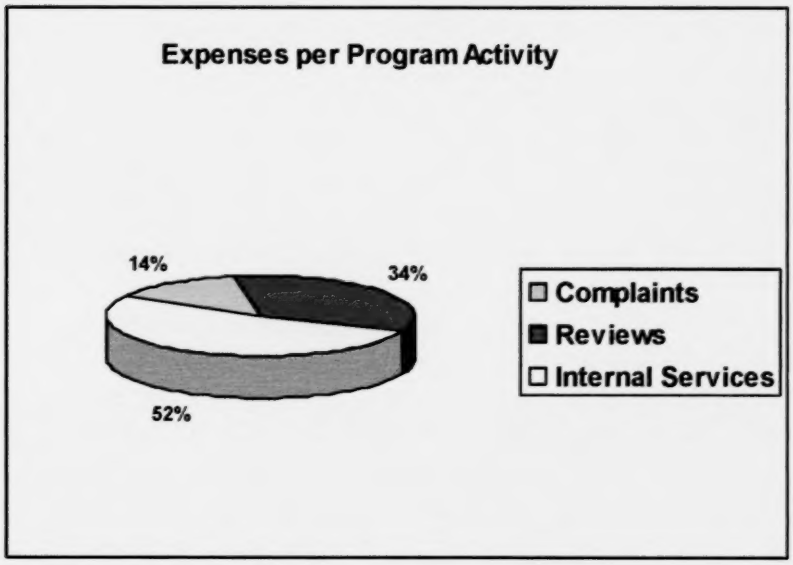
## Financial Highlights—Charts and Graphs




Total net financial and non-financial assets were $349 thousand at the end of fiscal year 2011-12, an increase of $28 thousand from fiscal year 2010-11. The increase in assets is mainly due to the increase in the amount due from the Consolidated Revenue Fund, which represents the net amount of cash required by the Security Intelligence Review Committee to process internal and external accounts payable and receivable.




Total net liabilities were $547 thousand at the end of 2011-12, a decrease of $154 thousand from fiscal year 2010-11. The decrease was mainly due to the payment of severance pay requested by employees on a voluntary basis following the ratification of specific collective agreements.




Total expenses for SIRC were $3,107 thousand for fiscal year 2011-12 compared to $3,113 thousand for fiscal year 2010-11.

SIRC has three key program activities (PA) related to its strategic outcome: the Review Program Activity, the Complaints Program Activity and the Internal Services Program Activity. The 2011-12 total expenses per activity are described below.

$1,043 thousand (34%) was spent under the Review Program Activity in fiscal year 2011-12 compared to $1,102 thousand in fiscal year 2010-11. $438 thousand (14%) was spent under the Complaints Program Activity in fiscal year 2011-12 compared to $552 thousand in fiscal year 2010-11. $1,626 thousand (52%) was spent under the Internal Services Program Activity in fiscal year 2011-12 compared to $1,459 thousand in fiscal year 2010-11.

The slight decrease in expenses for the Review Program Activity (a decrease of $59 thousand from fiscal year 2010-11) is due to the departure of one staff member in the middle of the year. The larger decrease in expenses for the Complaint Program Activity (a decrease of $114 thousand from fiscal year 2010-11) is due to staff departures early in the year which affected both salary and performance pay expenditures.

The significant increase in expenses attributed to Internal Services (an increase of $167 thousand from fiscal year 2010-11) was mainly due to the payment of severance pay requested by employees on a voluntary basis following the ratification of specific collective agreements.

## Financial Statements

SIRC's financial Statements can be found on SIRC's website at :http://www.sirc-csars.gc.ca/opbapb/fstefi/2011-2012/index-eng.html

# Section IV: Other Items of Interest

## Organizational Contact Information

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## Additional Information

**Legislation Administered**

*Canadian Security Intelligence Service Act*